



**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/020,869	02/09/98	CASTANEDA	W

TYLER L NASIEDLAK
110 WEST GRANT STREET, #12-J
MINNEAPLOIS MN 55403

QM31/0706

EXAMINER

MILANO, M

ART UNIT

PAPER NUMBER

3738

DATE MAILED:

07/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Remain of office action



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TO: J. NABER, INC.
100 WEST GRANT STREET, #12-J
MINNEAPOLIS, MN 55403

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09/020 869 02/09/98 CASTANEDA

TYLER L NASIEDLAK
5555 MATTERHORN DRIVE
FRIDLEY MN 55432

QM12/1020

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED:

10/20/99

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 7/21/99

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1, 6-10, 14, 19-23 & 25-38 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☒ Claim(s) 21, 22, 30-33 is/are allowed.
☒ Claim(s) 1, 6, 14, 19, 23, 25-29, 34-36, 38 is/are rejected.
☒ Claim(s) 7-10, 20, 25, 37 is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☐ Notice of Draftperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

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Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1,6,14,25,26-29,34-36 and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Cox, 5,824,040. As stated in column 15, lines 1-22, the hub module (i.e., renal hub module 158) may be stented or unstented. The stent material is recited as being Nitinol. The various forms of Nitinol widely available are considered to meet the shape memory properties as claimed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox '040. Cox teaches all aspects of the claimed invention except for the specific use of 3-D imaging techniques to form the

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graft. As stated in column 15, lines 37-45, the hub modules can be supplied in various shapes to enable selection of the proper shape to fit a patient or the hub modules can be custom molded to a particular patient using any various convention imaging modality. Therefore, to have used a 3-D imaging techniques to enable custom molding of the graft would have been obvious to one of ordinary skill in the art.

Allowable Subject Matter

5. Claims 7-10, 20, 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Claims 21, 22, 30-33 are allowed.

Response to Arguments

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication should be directed to Michael Milano at telephone number (703) 308-2496.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group 3700 Receptionist whose telephone number is (703) 308-0858.

Milano.mm
October 18, 1999

Michael J. Milano
Primary Examiner
Group 3700, AU 3738